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In The
Supreme Court of the United States

BARBARA GRUTTER,
Petitioner,

v.

LEE BOLLINGER, et al.,
Respondents.

On Writ Of Certiorari To The
United States Court of Appeals For The Sixth Circuit

BRIEF OF THE AMERICAN EDUCATIONAL RESEARCH ASSOCIATION, THE ASSOCIATION OF AMERICAN COLLEGES AND UNIVERSITIES, AND THE AMERICAN ASSOCIATION FOR HIGHER EDUCATION AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

ANGELO N. ANCHETA
Counsel of Record
CHRISTOPHER F. EDLEY, JR.
124 MT. AUBURN STREET,
SUITE 400 SOUTH
CAMBRIDGE, MA 02138
(617) 496-3240

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INTEREST OF *AMICI CURIAE*

Pursuant to Supreme Court Rule 37, the American Educational Research Association, the Association of American Colleges and Universities, and the American Association for Higher Education submit this brief as *amici curiae* in support of Respondents.[1]

Amici curiae are among the nation's leading associations and institutions committed to improving the quality of higher education in the United States through scholarly inquiry, the exchange and dissemination of information, institutional reform, and public policy development. Collectively, the membership of *amici curiae* includes educational institutions, organizations, and individuals, ranging from major research universities, liberal arts colleges, and community colleges to educators, researchers, university officials, students, and social scientists in disciplines that include education, psychology, sociology, statistics, economics, anthropology, and political science. Individual statements of interest are contained in Appendix A of this brief.

This Court has often employed relevant research studies in its equal protection decisions involving race,[2] and, in determining whether the promotion of educational diversity in higher education is a compelling governmental interest, the Court's decision can and should be informed by credible and reliable research findings. *Amici curiae* have a deep-seated interest in the accurate presentation of relevant research addressing the educational

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[1] All parties have filed with the Court their written consent to the filing of all *amicus curiae* briefs in this case. Pursuant to Supreme Court Rule 37.6, counsel for *amici curiae* certifies that this brief was not written in whole or in part by counsel for any party, and that no person or entity other than *amici curiae*, their members, or their counsel has made a monetary contribution to the preparation or submission of this brief.

[2] *See, e.g., Brown v. Board of Educ.*, 347 U.S. 483, 494 n.11 (1954).

benefits of student body diversity in higher education. Much of this research has been generated in only the past few years, but the consistency of the findings in demonstrating the educational benefits of diversity is impressive. *Amici curiae* are also concerned about the possible misapplication of research evidence in this litigation, including potentially misleading evidence offered at both the trial court and appellate levels. Accordingly, *amici curiae* provide analyses of the research evidence offered in the trial court below, address critiques of the evidence introduced by *amici curiae* in the instant case and in the related case of *Gratz v. Bollinger* (No. 02-516), and present highlights and citations to relevant findings in this brief to help clarify the Court's review of the literature.

In addition, research findings bear directly on the question of whether the University of Michigan Law School's admissions policy has been narrowly tailored to advance its compelling interest in promoting educational diversity. Empirical data and recent studies evaluating the effectiveness of race-neutral admissions policies are highly relevant to the Court's determination of whether the Law School's race-conscious admissions policy has satisfied the narrow tailoring requirement.

The interrelated arguments of *amici curiae* are contained both in this brief and in their brief in the companion case of *Gratz v. Bollinger* (02-516), and *amici curiae* respectfully request that the briefs be reviewed complementarily.

SUMMARY OF ARGUMENT

The Sixth Circuit below correctly ruled that the applicable precedent in this case is *Regents of the University of California v. Bakke*, in which Justice Powell's controlling opinion held that the promotion of educational diversity in higher education is a compelling governmental interest. This holding is supported both by research evidence introduced into the record in the district court and

by a large and growing body of research literature that demonstrates the positive benefits of educational diversity for all students—minority and non-minority alike.

Research evidence presented by the University of Michigan Law School, including an expert report by Professor Patricia Y. Gurin documenting the educational benefits of student body diversity, is substantial. Although the "strong basis in evidence" standard applied in remedial affirmative action cases is not mandated in this case, the substantial evidence offered by the Law School would satisfy this standard or any lesser standard. Attempts by Petitioner and their *amici curiae* in this case and in the related case of *Gratz v. Bollinger* to undermine this evidence are unfounded. The Gurin Report is sound evidence that strongly supports a holding that promoting educational diversity is a compelling governmental interest.

In addition, numerous research studies show that student body diversity can promote learning outcomes, democratic values and civic engagement, and preparation for a diverse society and workforce—goals that fall squarely within the basic mission of most universities. Recent studies focusing on diversity in law schools demonstrate that student body diversity improves classroom learning environments and promotes critical thinking skills. Diverse learning environments challenge students to consider alternative viewpoints and to develop tolerance for differences. Studies further show that student body diversity better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals to work with a diverse population of clients and actors in the legal system.

The admissions policy employed by the University of Michigan Law School is narrowly tailored to advance the compelling interest in promoting educational diversity. The policy employs race flexibly as one of several factors in determining admissions decisions, and it does not un-

necessarily burden non-minority applicants by preventing them from competing with minority applicants on an equal basis. The Law School's goal of seeking a "critical mass" of students is designed to prevent the harms of tokenism, which are well-documented in the research literature, and the policy satisfies narrow tailoring because it is neither too amorphous nor functionally equivalent to a quota. Evidence introduced in the district court and more recent research studies indicate that race-neutral alternatives are far less effective than race-conscious policies in promoting educational diversity. "Percent plan" policies, which are employed in undergraduate admissions at a few state universities, cannot be applied to professional schools and are not a viable alternative for the University of Michigan Law School.

ARGUMENT

I. RESEARCH EVIDENCE IN THE RECORD SUPPORTS THE COMPELLING INTEREST IN PROMOTING EDUCATIONAL DIVERSITY.

Petitioner and various *amici curiae* assert in this case and in the related case of *Gratz v. Bollinger* (No. 02-516) that the University of Michigan Law School bears the burden of showing a "strong basis in evidence" to support its claim that promoting educational diversity is a compelling interest. Petitioner and *amici curiae* further assert that the Law School has failed to satisfy the proposed evidentiary burden; specifically, they attempt to refute the expert report of Professor Patricia Y. Gurin, which was introduced into evidence by the Law School and was uncontested by Petitioner in the district court below. Petitioner's assertions are unfounded. A heightened evidentiary burden is not required in this case, and, even if it were, the Law School has offered substantial evidence to support its interest in promoting educational diversity. The Gurin Report is fundamentally sound and strongly supports the Law School's argument that the promotion of

educational diversity is a compelling governmental interest.

A. The Gurin Report Supports the Compelling Interest in Promoting Educational Diversity.

1. The Gurin Report is Useful and Reliable Evidence Documenting the Positive Effects of Educational Diversity.

The Law School has provided substantial evidence to support the proposition that promoting educational diversity is a compelling governmental interest. Within this body of evidence is the expert's report produced by Patricia Y. Gurin, a Professor of Psychology and Women's Studies at the University of Michigan, with over thirty years of experience in social psychological research and teaching on the general topics of intergroup relations.

In her report to the district court in this case and in *Gratz v. Bollinger*, Professor Gurin analyzed three sources of data: (1) national data collected from over 9,300 students at nearly 200 colleges and universities from the Cooperative Institutional Research Program conducted by the Higher Education Research Institute at UCLA; (2) the Michigan Student Study, containing survey data collected over a number of years from over 1,300 undergraduate students who entered the University of Michigan in 1990; and (3) data drawn from a study of undergraduate students who were enrolled in a class in the Intergroup Relations, Community, and Conflict Program at the University of Michigan. Carefully controlling for factors other than diversity and employing measures that have been tested and validated extensively in the field, the Gurin Report yielded statistically significant and consistent results across all three analyses of the data, leading Professor Gurin to conclude that "[s]tudents who experienced the most racial and ethnic diversity in classroom settings and in informal interactions with peers showed the greatest engagement in active thinking processes, growth in

intellectual engagement and motivation, and growth in intellectual and academic skills." Expert Report of Patricia Y. Gurin, *Gratz v. Bollinger,* No. 97-75231 (E.D. Mich.) & *Grutter v. Bollinger,* No. 97-75928 (E.D. Mich.), *in* THE COMPELLING NEED FOR DIVERSITY IN HIGHER EDUCATION 99, 100 (1999) [hereinafter Gurin Report].

More specifically, Professor Gurin found that *"structural diversity"*—the racial and ethnic composition of the student body—leads to institutional transformations that provide the opportunity for *"classroom diversity"*—the incorporation of knowledge about diverse groups into the curriculum (including ethnic studies courses)—as well as *"informal interactional diversity"*—the opportunity to interact with students from diverse backgrounds in the broad, campus environment. These diversity experiences are in turn linked to several positive learning and democracy outcomes.

One learning outcome is improved, less mechanistic thinking. Professor Gurin found diversity leads to "a learning environment that fosters conscious, effortful, deep thinking" as opposed to automatic, preconditioned responses. *Id.* at 105. Other outcomes include more active engagement in the learning process and an increased ability to understand the perspectives of others. Students educated in a diverse environment were "most likely to acknowledge that group differences are compatible with the interests of the broader community." *Id.* at 101. Professor Gurin further found that students at the University of Michigan who interacted with diverse peers had "[a]n increased sense of commonality with other ethnic groups," and that these students also exhibited a "growth in mutuality or enjoyment in learning about both one's own background and the backgrounds of others, more positive views of conflict, and the perception that diversity is not inevitably divisive in our society." *Id.* at 127.

Additional outcomes involve democratic participation and engagement in society. Results "strongly support the

central role of higher education in helping students to become active citizens and participants in a pluralistic democracy." *Id.* at 126. "Students educated in diverse settings are more motivated and better able to participate in an increasingly heterogeneous and complex democracy," and they "showed the most engagement during college in various forms of citizenship." *Id.* at 101. Students in diverse learning environments "were comfortable and prepared to live and work in a diverse society." *Id.* at 127. Students who reported engaging and interacting with diverse peers felt that "their undergraduate education help[ed] prepare them for their current job." *Id.* at 133. Professor Gurin also found that diverse experiences during college affected "the extent to which graduates in the national study were living racially or ethnically integrated lives in the post-college world. Students who had taken the most diversity courses and interacted the most with diverse peers during college had the most cross-racial interactions five years after leaving college." *Id.*

2. Critiques of the Gurin Report Offered by *Amici Curiae* are Unsound and Unreliable.

Petitioner and various *amici curiae* have introduced critiques of the Gurin Report through briefs submitted to this Court in this case and in *Gratz v. Bollinger*. *See* Brief for the Petitioner, *Grutter v. Bollinger* (No. 02-241), at 33-34; Brief for *Amicus Curiae* National Association of Scholars in Support of Petitioners, *Gratz v. Bollinger* (No. 02-516), at 6-29; Brief *Amici Curiae* of the Center For Equal Opportunity, the Independent Women's Forum, and the American Civil Rights Institute in Support Of Petitioner, *Gratz v. Bollinger* (No. 02-516) & *Grutter v. Bollinger* (02-241), at 21-22. This Court should reject these critiques on multiple grounds. First, it is inappropriate for *amici curiae* to inject themselves into the case by introducing new arguments on appeal—challenging the validity of the Gurin Report—when these

arguments were not presented by the parties or raised by the court below. An *amicus curiae* must "accept the case before the court with the issues made by the parties." 4 Am. Jur. 2d *Amicus Curiae* § 7 (1998). Petitioner did not dispute the Gurin Report in the trial court, nor did Petitioner contest the educational benefits of diversity as a general proposition. As it has in previous cases, this Court should reject the introduction by *amici curiae* of new arguments not addressed by the parties in the lower court. *See, e.g., Dep't of Taxation & Finance v. Milhelm Attea & Bros., Inc.*, 512 U.S. 61, 76 n.1 (1994); *United Parcel Service, Inc. v. Mitchell*, 451 U.S. 56, 61 n.2 (1981); *Bell v. Wolfish*, 441 U.S. 520, 531 n.13 (1979).

Just as importantly, the critiques[3] offered by *amici curiae* to refute the Gurin Report are themselves unsound and unreliable. As summarized below and more extensively documented in (1) supplemental testimony and responses by Professor Gurin and (2) independent analyses conducted by the Stanford Institute for Higher Education Research, the reports cited by Petitioner's *amici curiae* to refute the Gurin Report contain serious flaws. *See* Supplemental Expert Report of Patricia Y. Gurin, *Grutter v. Bollinger*, No. 97-75928 (E.D. Mich.) (Jan. 11, 2001); Patricia Gurin, *Wood & Sherman: Evidence for the Educational Benefits of Diversity in Higher Education: Response to the Critique by the National Association of Scholars of the Expert Witness Report of Patricia Gurin in* Gratz, et al. v. Bollinger, et al. *and* Grutter v. Bollinger, et al. (2001), *available at* http://www.umich.edu/~urel/admissions/research/gurin.html [hereinafter Gurin, Wood & Sherman Response]; Patricia Gurin, *Lerner & Nagai: Evidence for the Educational Benefits of Diversity in Higher Education: An Addendum* (2001), *available at*

[3] The brief of the National Association of Scholars in *Gratz v. Bollinger* relies primarily on analyses by Thomas E. Wood and Malcolm J. Sherman, while the brief of the Center for Equal Opportunity, et al., in this case relies largely on the critiques of Wood and Sherman and a critique by Robert Lerner and Althea K. Nagai.

http://www.umich.edu/~urel/admissions/research/gurin.html; Ewart A.C. Thomas & Richard J. Shavelson, *Analysis of Report of Wood & Sherman, Addendum to National Association of Scholars Amicus Brief* (analysis by the Stanford Institute for Higher Education Research), *available at* http://siher. stanford.edu; *see also* Brief of the American Psychological Association as *Amicus Curiae* in Support of Respondents, *Gratz v. Bollinger* (02-516) & *Grutter v. Bollinger* (02-241) (supporting methodology and findings of Gurin Report).

Most of the arguments of Petitioner's *amici curiae* revolve around a methodological criticism of Professor Gurin's theory: measures of experience with diversity (i.e., classroom diversity and informal interactional diversity) are not appropriate proxies for structural diversity, and Gurin should have used structural diversity itself to examine its *direct* impact on educational outcomes. Indeed, *amici curiae* propose that Professor Gurin deliberately focused on experience with diversity because she knew that structural diversity has no direct impact on student outcomes.

Petitioner's *amici curiae* propose a model that examines only whether structural diversity, viewed in isolation and without regard to context, has *direct* effects on educational outcomes. They insist that this is the only valid model, and that Professor Gurin also expected structural diversity to affect educational outcomes directly. Contrary to the assertions of the National Association of Scholars (NAS) and the Center for Equal Opportunity (CEO), et al., Professor Gurin has never argued that structural diversity should have a direct impact on educational outcomes; nor has she ever argued that the effect of experience with diversity should be greater on campuses with the largest percentages of minorities. Instead, she has consistently argued that the presence of diverse peers provides the possibility of having actual experience with diversity—one cannot have experience with diversity

without having diverse students in the first place—and positive educational outcomes result from having *actual experience* with diverse peers. According to Professor Gurin: "Structural diversity is essential, but, by itself, usually not sufficient to produce substantial benefits; in addition to being together on the same campus, students from diverse backgrounds must also learn about each other in the courses they take and in informal interaction outside of the classroom. For new learning to occur, institutions of higher education have to make appropriate use of structural diversity." Supplemental Expert Report of Patricia Y. Gurin, *supra*, at 22.

Researchers for the Stanford Institute for Higher Education Research—Ewart A.C. Thomas, a professor of psychology and former dean of the School of Humanities and Sciences at Stanford University, and Richard Shavelson, a professor of education and former dean of the School of Education at Stanford University—have independently assessed the methodological criticisms of Gurin by the NAS, and have found that the NAS's basic argument "flies in the face of a large body of social science research showing that institutional variables [such as structural diversity] have their effects on individual level variables [such as positive educational outcomes] through other mechanisms." Thomas & Shavelson, *supra*, at 9. "This approach is firmly established in research regarding effects on higher education outcomes, in addition to the psychology sources cited by Gurin." *Id.* According to Thomas and Shavelson, "Gurin's approach is scientifically sound."

The NAS, in an effort to establish the importance of structural diversity itself, further proposes that under Gurin's statistical model there should be "interaction" between structural diversity and diversity experience variables. They assert that Gurin is trying to show that diversity experience variables are *more effective* at higher levels of minority enrollment. *See* Brief for *Amicus Curiae*

National Association of Scholars in Support of Petitioners, *supra*, at 12 n.10. Nowhere in Gurin's original report or in later statements has she proposed that the impact of diversity experiences is greater or more effective when there are higher proportions of minority students. Nor should Gurin's theory predict "interactions" between the structural diversity and diversity experience variables. Instead, under Gurin's model, structural diversity affects the *number of students* who will have the diverse experiences and gain educational benefits, not the magnitude of the effects. The NAS analyses are thus irrelevant to Gurin's basic theory.

The NAS and CEO, et al., have criticized the Gurin Report on other conceptual and methodological grounds, none of which has merit. First, the NAS and CEO, et al., claim that Professor Gurin's measures of educational outcomes are inapt and should be replaced by more "traditional" measures of educational outcomes, such as grades, graduate school standardized test scores (GRE scores), and admission to graduate schools. Their criteria do not, however, measure active, complex thinking or intellectual engagement, outcomes that Professor Gurin hypothesized would be affected by diversity. *See* Supplemental Expert Report of Patricia Y. Gurin, *supra*. In addition, outcomes such as grades and test scores raise basic measurement problems. Grades, for example, do not accurately reflect the gain or growth in a student's knowledge, because they do not take into account a student's prior knowledge before taking the course; grades are also not standardized and can vary from institution to institution, from course to course, and from major to major. GRE scores also raise problems as measures of outcomes because only a fraction of college graduates take the GRE, and GRE scores are highly related to SAT scores. After taking account of the SAT in a commonly used statistical analysis known as a "regression," the impact of the four-year college experience could explain only a portion of what is left, and this would trivialize the impact of college.

Other outcome measures employed by Professor Gurin, such as democracy outcomes, have also been criticized, curiously, as irrelevant or politically biased. Yet, it cannot be gainsaid that one of the primary goals of an institution of higher learning is to prepare students to live and work in a democratic society, especially one that is becoming increasingly diverse. Indeed, it is arguably the central mission of higher education to educate and produce society's future leaders, and measuring the civic preparedness of students should be highly relevant to an inquiry about the educational benefits that result from a diverse student body.

Another criticism of the Gurin Report focuses on the small size of the effects between any single measure of diversity experience and any single measure of educational outcomes. The NAS and CEO, et al., attempt through a divide-and-conquer approach to show that Gurin's findings are trivial or meaningless. But any *one* effect of a single measure of diversity experience on a single measure of educational outcomes is bound to be small, especially when controlling for all of the other variables that are potential influences on student outcomes. In Gurin's analysis, the size of any single effect is not as important as the *consistency* of the results, which she found across multiple measures. Gurin, Wood & Sherman Response, *supra*, at 14-16. Psychological researchers often aggregate individual items into indices, which are more reliable because they minimize the impact of measurement error for any single item. When Professor Gurin's findings employ multiple-item indices, there are stronger relationships than are observed with any single outcome. *Id.* at 13-20; *see* Patricia Gurin, et al., *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 HARV. ED. REV. 332 (2002).

In addition, even modest effect sizes can have broad implications when large numbers of individuals are exposed to those effects. As in public health policy—where

very small reductions in the risk of disease, when enjoyed by entire populations, make major contributions to public health—the effects of diversity on hundreds of thousands of students in higher education can, over time, be substantial. *See* Gurin, Wood & Sherman Response, *supra*, at 20. To argue, as do the NAS and CEO, et al., critiques, that the Gurin Report's findings are miniscule or trivial runs counter to common practices in social scientific research and in public policy making.

A final criticism of the Gurin Report worth noting and refuting focuses on Professor Gurin's use of self-reported data to measure educational outcomes. As the Stanford University researchers make clear in their independent analysis of the NAS critiques, "[t]his criticism is at odds with standard social scientific practice." Thomas & Shavelson, *supra*, at 12. Contrary to the assertions of the NAS and CEO, et al., self-assessments are credible and widely accepted methods for measuring learning in higher education. *See* Gurin, Wood & Sherman Response, *supra*, at 23-24 (citing Peter T. Ewell & Dennis P. Jones, *Actions Matter: The Case for Indirect Measures in Assessing Higher Education's Progress on the National Educational Goals*, 42 J. GEN. EDUC. 123 (1993); ERNEST T. PASCARELLA & PATRICK T. TERENZINI, HOW COLLEGE AFFECTS STUDENTS: FINDINGS AND INSIGHTS FROM TWENTY YEARS OF RESEARCH (1991)).

In sum, the Gurin Report is sound research that employs credible and widely accepted methodologies to conclude that student body diversity leads to a wide range of positive educational outcomes. It provides substantial evidence in support of the Law School's argument that the promotion of educational diversity is a compelling governmental interest.

B. The "Strong Basis in Evidence" Requirement is Not Mandated for Non-Remedial University Admissions.

Petitioner and *amici curiae* have asserted that the University of Michigan Law School must provide a "strong basis in evidence" for its conclusion that its race-conscious admissions policy advances a compelling governmental interest. In doing so, Petitioner misapplies the evidentiary standard established in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989), and the plurality opinion in *Wygant v. Jackson Board of Education*, 476 U.S. 267 (1986), to assess the constitutionality of race-conscious policies designed to remedy the present effects of past discrimination.

The factual predicate required by the strong basis in evidence rule is necessary to show the direct linkage between a public employer's past discrimination and its remedial policy; its own discrimination—rather than some improper motivation—must justify the use of race. However, a heightened evidentiary burden is not necessary for this Court to rule, as a matter of law, that a given interest is compelling. This Court has accepted the remediation of the present effects of past discrimination as a compelling interest, but it has rejected the remediation of societal discrimination and the promotion of minority role models as compelling interests. *See Croson*, 488 U.S. at 498-99; *Wygant*, 476 U.S. at 275-76. In the same way, there was no heightened evidentiary requirement established in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978), where Justice Powell's controlling opinion upheld the promotion of educational diversity as a compelling interest. If the Law School must bear any burden, it is to prove that the motivation behind its race-conscious policy is, in fact, the promotion of educational diversity and not some impermissible motive. The record below, which includes extensive documentary evidence and testimonial evidence, clearly establishes this fact.

In addition, there are significant differences between a non-remedial case involving the admissions policies of a university and the Court's prior cases requiring that a public employer offer evidence to show that its past discrimination justifies a race-conscious remedial policy. As the court of appeals below stated: "Unlike a remedial interest, an interest in academic diversity . . . exists independently of a race-conscious admissions policy." *Grutter v. Bollinger*, 288 F.3d 732, 752 (6th Cir. 2002). Thus, the university need not document some linkage between a past wrong and a remedy; a university's ongoing interest in promoting diversity can be promoted through a variety of methods of its own choosing. In the thorough analysis and judgment of the University of Michigan Law School, the most effective method at this time is a race-conscious admissions policy.

Policy making in higher education also enjoys a greater degree of judicial deference because of academic freedoms rooted in the First Amendment. *See Keyishian v. Board of Regents*, 385 U.S. 589 (1967); *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring in result). This Court has provided significant room for institutions of higher learning to maintain an "atmosphere of speculation, experiment, and creation—so essential to the quality of higher education," *Bakke*, 438 U.S. at 312, and judicial deference to academic freedom suggests that a heightened evidentiary standard is neither required nor appropriate. *See* Note, *An Evidentiary Framework for Diversity as a Compelling Interest in Higher Education*, 109 HARV. L. REV. 1357 (1996).

In any case, the record below clearly establishes that the University's true motivation in adopting its race-conscious admissions policy is the promotion of educational diversity. The research evidence presented by the University to the trial court below is substantial and would satisfy the strong basis in evidence standard or any lesser standard.

II. RESEARCH STUDIES SUPPORT THE LAW SCHOOL'S COMPELLING INTEREST IN PROMOTING EDUCATIONAL DIVERSITY.

The compelling governmental interest in promoting educational diversity is also supported by recent studies showing that diversity can promote positive learning outcomes, democratic values and civic engagement, and preparation for a diverse society and workforce—goals that fall squarely within the Law School's basic mission. The research studies cited by *amici curiae* American Educational Research Association, et al., in their brief in *Gratz v. Bollinger*, demonstrate the positive benefits of educational diversity at multiple levels of higher education. *See* Brief of the American Educational Research Association, et al., as *Amici Curiae* in Support of Respondents, *Gratz v. Bollinger* (02-516).

Here, *amici curiae* provide highlights of recent studies focusing on the positive benefits of educational diversity in legal education. These studies reinforce what this Court made clear over fifty years ago in *Sweatt v. Painter*, when it declared racially segregated legal education to be unconstitutional: "The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned." 339 U.S. 629, 634 (1950).

A. Student Body Diversity Improves Educational Outcomes in Legal Education.

A recent study based on survey data of over 1,800 students from two of the nation's most selective law schools, the Harvard Law School and the University of Michigan Law School, strongly supports the proposition that student body diversity has positive effects on educational outcomes. Gary Orfield & Dean Whitla, *Diversity and Legal Education: Student Experiences in Leading Law Schools, in* DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION 143 (Gary Orfield with Michal Kurlaender eds. 2001). In the Orfield and Whitla study, the Gallup Poll surveyed the entire student bodies at the law schools at Harvard and the University of Michigan, and, with a high response rate of 81%, were able to obtain results from 1,820 students. Approximately two-thirds of these students were white, nearly 7% were African American, approximately 10% were Asian American, and over 4% were Latino.

With no statistically significant differences across the various racial groups, findings from the Orfield and Whitla study show that racial and ethnic diversity enhances student learning experiences. More than two-thirds of students in each law school found diversity to lead to an enhancement of their thinking about problems and solutions in their classes. *Id.* at 159. Nearly two-thirds of the students in each school reported that diversity enhances the way topics have been discussed in a majority of their classes. *Id.* at 160. Two-thirds of the Harvard students and nearly three-fourths of the Michigan students reported that diversity enhances the way topics are discussed outside the classroom—informally at meals, over coffee, or at other similar occasions. *Id.* at 159-60. Over two-thirds of the Harvard students and over 70% of the Michigan students reported that diversity enhances their ability to work more effectively or get along better with members of other races. *Id.* at 159. And, when asked to make an overall assessment of racial and ethnic diversity on their educational experiences, the results were overwhelmingly positive: 89% of Harvard students and 91% of Michigan students reported a positive impact, the large majority reporting a strongly positive impact. *Id.* at 160-61.

Confronting different opinions and taking ideas seriously are hallmarks of a law school education, where "students need to understand all sides of conflicts and how to argue difficult issues in contentious, high-stakes settings." *Id.* at 162. The Orfield and Whitla study found that conflicts that arose because of racial differences had positive effects on thinking and learning. Over two-thirds of the Harvard students and three-fourths of the Michigan students reported that conflicts because of racial differences challenge them to rethink their own values. *Id.* Majorities at both schools reported that conflicts because of racial differences ultimately become positive learning experiences. *Id.* at 162-63. The study further found that discussions with students of different racial and ethnic backgrounds often changed students' views of important issues related to the justice system. Over three-fourths of the Harvard students and 84% of the Michigan students reported that having these discussions led to, at the very least, a significant change in their views of the equity of the criminal justice system. *Id.* at 163-64. Nearly 80% of the Harvard students and 85% of the Michigan students reported that cross-racial discussions changed their views of the issues that need to be considered in resolving conflicts over rights, such as property rights and contractual rights. *Id.* at 164.

Studies of law school alumni support the Orfield and Whitla findings that student body diversity yields positive educational benefits. Over 2,000 alumni (over half of whom were minority alumni) who graduated between 1970 and 1996 from the University of Michigan Law School were surveyed on a wide variety of topics, including their views on their legal education and their professional careers. David L. Chambers, Richard O. Lempert & Terry K. Adams, *Michigan's Minority Graduates in Practice: The River Runs Through Law School,* 25 LAW & SOC. INQUIRY 395 (2000). Among its many findings, the study found that large proportions of Michigan alumni placed considerable value on the contributions of diversity to

their classroom experiences in law school. Two thirds of the minority alumni from all three decades, and 50% of the white alumni from the 1990s, the period with the highest levels of diversity, placed considerable value on the contributions of racial and ethnic diversity to their law school experiences. *Id.* at 412-14.

A significant finding in the Chambers, et al., study is that the figure for positive responses to the value of racial/ethnic diversity for white males from the 1990s—nearly 50% reporting positive values for diversity—is more than double the figure for white males from each of previous decades. *Id.* at 417. The increased level of student body diversity in the 1990s, the authors propose, led to greater exposure and sensitivity to difference: "[T]he likelihood of sitting in class next to a person of a different gender or ethnicity, or being assigned to write a brief with, negotiate with, or respond to the views of someone of a different gender or ethnicity went up. We expect that such interactions increase the perceived educational value of diversity." *Id.*

Surveys of law school faculty members also support the proposition that greater student body diversity improves classroom learning. Analyses of a national survey of over 500 law school faculty members conducted by the American Association of Law Schools (AALS) in 1999 found support among the faculty for student body diversity and for the positive effects of diversity in the classroom. See Richard A. White, *Preliminary Report: Law School Faculty Views on Diversity in the Classroom and the Law School Community* (May 2000), *available at* http://www.aals.org/statistics/diverse3.pdf; José F. Moreno, Affirmative Actions: The Educational Influence of Racial/Ethnic Diversity on Law School Faculty (2000) (unpublished Ed.D. dissertation, Harvard University).

Nearly three-fourths of the law school faculty felt strongly that having a diverse student body is important to the mission of their law schools. White, *supra,* at 3.

Strong majorities of faculty felt that diversity broadens the variety of experiences shared in the classroom, and that diverse interaction exposes students to different perspectives. *Id.* at 3-4. Majorities also felt that having a critical mass of students of a particular racial or ethnic group is important to their participation in the classroom, and that minority students raise issues and perspectives that are not raised by others. *Id.*

Research further demonstrates that the benefits of diverse learning environments better prepare students for entering the workforce as professionals. As noted above, high percentages of students in the Orfield and Whitla study reported that diversity had positively affected their "ability to work more effectively and/or get along better with members of other races." Orfield & Whitla, *supra,* at 159. More specific to the practice of law, nearly nine out of ten law students at Harvard and the University of Michigan thought that having discussions with students of different racial and ethnic backgrounds would have at least some impact on the kind of legal or community issues that they would encounter as a professional. Forty-four percent of the Harvard students and 54% of the Michigan students expected "a great deal" or "substantial" amount of impact from experiences with students of other racial or ethnic backgrounds on the issues they would encounter as professionals. *Id.* at 165.

B. Student Body Diversity and Diverse Learning Environments Challenge Racial Stereotyping in Legal Education.

Although it is impossible to eliminate all stereotyping and stigmatizing within legal education, studies show that, contrary to the assertions of the Petitioner and *amici curiae,* student body diversity overwhelmingly leads to positive outcomes and helps dispel the racial stereotyping that has plagued American society throughout its history. Eighty percent of the law school faculty from the AALS survey reported that the quality of their students

had not been compromised by diversity; over 85% reported that the quality of their law school had not been compromised by having a focus on diversity; and over 94% disagreed with the suggestion that racial and ethnic diversity impedes the discussion of substantive issues in the classroom. Moreno, *supra,* at 94. Two-thirds of the law school faculty felt that classroom diversity helps students confront stereotypes involving racial issues, and a majority of faculty felt that diversity helps students confront stereotypes involving social and political issues. White, *supra,* at 3-4. The Orfield and Whitla study found that less than 1% of the law students at Harvard and the University of Michigan reported that having students of different races and ethnicities was a negative element of their education. Orfield & Whitla, *supra,* at 160-61. Only about one in twenty students at each school strongly agreed with the idea that conflicts because of racial differences reinforced stereotypes; clear majorities at each school disagreed. *Id.* at 161-62.

As the Chambers, et al., study of University of Michigan Law School alumni makes clear, whatever stereotyping, if any, that minority law students may have encountered as students is far outweighed by the positive gains of attending and graduating from a prestigious law school such as the University of Michigan. Over 85% of minority alumni across three decades responded that their professional careers have benefited significantly from the prestige associated with being a Michigan law graduate. Chambers, et al., *supra,* at 418. Michigan's minority alumni go on to become leaders in all areas of the legal profession and in their communities, and they are more likely than other alumni to engage in government and public interest work and to provide services to individuals of their own race or ethnicity, who are often greatly underserved by the profession. *Id.* at 401.

III. THE LAW SCHOOL'S ADMISSIONS POLICY IS NARROWLY TAILORED TO PROMOTE EDUCATIONAL DIVERSITY.

A. The Law School's Admissions Policy Employs Race Modestly and Flexibly.

The Sixth Circuit correctly held that the University of Michigan's current admission policies adhere to the narrow tailoring principles articulated in *Bakke*. *See* 438 U.S. at 317-18. The University is not operating a rigid quota-style admissions program, nor is it utilizing a minority set-aside. Instead, consistent with *Bakke*, every applicant to the Law School is competing for every seat in the class. Race is used as a modest "plus" factor in a whole file review system that examines each applicant as an individual, with consideration of grades, test scores, undergraduate institution, applicant's essay, course selection, as well as perspectives or experiences that will contribute to the diversity of the student body. Thus the University's policies also satisfy elements of narrow tailoring that are applied in remedial affirmative action cases but are relevant to non-remedial university admissions. *See United States v. Paradise*, 480 U.S. 149 (1987) (applying multi-pronged test examining necessity of relief and efficacy of alternatives, flexibility and duration of relief, relationship of numerical goals to the relevant market, and impact on third parties).[4] The Law School's whole file review policy is both highly flexible and minimally burdensome on third parties.

[4] As the Sixth Circuit below noted, the University's interest in diversity is ongoing, even though a policy to advance that interest can have limits on duration. *Grutter*, 288 F.3d at 752. Similarly, because the University is not trying to rectify its own past discrimination, it need not adopt numerical goals to make up for admissions that would have been expected if there had been no past discrimination. *See Johnson v. Board of Regents*, 263 F.3d 1234, 1252 (11th Cir. 2001).

B. "Critical Mass" is a Flexible Concept Designed to Prevent Tokenism and Stereotyping.

Petitioner asserts that the Law School's goal of seeking a "critical mass" of minority students amounts to a quota, or, alternatively, that the definition of "critical mass" is too amorphous. These assertions are unfounded. Recent data on the Law School's enrollments of underrepresented minorities show that "critical mass" is far from being a fixed quota: as the district court below found, minority enrollments ranged from a low of 5.4% in 1998 to a high of 19.2% in 1994. *Grutter*, 137 F. Supp. 2d 821 (E.D. Mich. 2001).

Nor does "critical mass" escape definition. As one study of college faculty indicates, critical mass focuses on "the need for students to feel safe and comfortable," and serves as a counter to "the lack of safety or comfort felt when one finds oneself a 'solo' or 'minority of one.'" Roxanne Harvey Gudeman, *Faculty Experience with Diversity: A Case Study of Macalester College, in* DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION 251, 267-68 (Gary Orfield with Michal Kurlaender eds. 2001). In other words, critical mass implies: "Enough students to overcome the silencing effect of being isolated in the classroom by ethnicity/race/gender. Enough students to provide safety for expressing views." *Id.* at 268.[5]

Indeed, the Chambers, et al., study of University of Michigan Law School alumni specifically identifies tokenism as a likely cause of significant differences between the responses of Latino alumni and the responses of other alumni from the 1970s to the question of how strongly, in looking back at the law school classroom experience, they

[5] The AALS national survey of law school faculty underscores the point: "A high percentage (50% or more) of faculty [feel] strongly that having a *critical mass of students* of a particular racial/ethnic group is important to their participation in the classroom . . . ." White, *supra*, at 3-4 (emphasis added).

value being called on in class. Chambers, et al., *supra,* at 411-12. Only 14% of the Latino alumni gave a response of 5 or above on a scale of 1 to 7 (where 1 was "none" and 7 was "a great deal"), compared to 44% of white alumni and 33% of black alumni; none of the Latinos gave a response of 7. The researchers propose that because the law school's minority admissions program admitted only small numbers of Latino students during the 1970s, problems of tokenism and isolation lowered the value of the classroom experience for these students. As the authors state: "[B]eing part of a very small but visible minority can put tremendous burdens on students. They may regard themselves as 'tokens' and feel the quality of their answers have implications for how all their fellow [minority students] will be regarded." *Id.* at 412.

The Law School's consideration of "critical mass" in its admissions policy thus recognizes the harms that accrue from having only token numbers of minority students within its student body. The dangers of tokenism are well documented in the research literature and include racial isolation, alienation, and stereotyping. *See, e.g.,* Walter R. Allen, *The Color of Success: African-American College Student Outcomes at Predominantly White and Historically Black Public Colleges and Universities,* 62 HARV. EDUC. REV. 26 (1992); Chalsa M. Loo & Garry Rolison, *Alienation of Ethnic Minority Students at a Predominantly White University,* 57 J. HIGHER EDUC. 58 (1986). *See generally* SYLVIA HURTADO, ET AL., ENACTING DIVERSE LEARNING ENVIRONMENTS: IMPROVING THE CLIMATE FOR RACIAL/ETHNIC DIVERSITY IN HIGHER EDUCATION 25-27 (1999) (reviewing literature on psychological impacts of racial isolation in higher education); Rosabeth Moss Kanter, *Some Effects of Proportions on Group Life: Skewed Sex Ratios and Responses to Token Women,* 82 AM. J. SOC. 965 (1977) (describing the adverse effects of tokenism).

Moreover, when an institution such as the Law School has acted to admit a critical mass of minority students, it also strives to admit enough students to represent varied viewpoints and perspectives *within* underrepresented groups. Critical mass promotes the notion of *intra*-group diversity, which undermines the stereotype that all students within a group have identical experiences and possess identical viewpoints. As Professor Gurin has stated: "[T]he presence of more than a token number of minority students decreases the likelihood that those minority individuals will be stereotyped by others." Supplemental Expert Report of Patricia Y. Gurin, *supra,* at 2.

Critical mass is thus neither a rigid quota nor an amorphous concept defying definition. Instead, it is a contextual benchmark that allows the Law School to exceed token numbers within its student body and to promote the robust exchange of ideas and views that is so central to the Law School's mission.

C. Race-Neutral Policies are Less Efficacious than Race-Conscious Policies in Promoting Educational Diversity.

In considering the efficacy of alternatives to the Law School's admissions policy under the *Paradise* factors, the Court may choose to consider the availability of race-neutral admissions policies. Contrary to the contention of Petitioners and their *amici curiae,* both the record in the district court below and recent research in this area demonstrate that race-neutral policies are not as effective as race-conscious policies in promoting educational diversity.

The record clearly shows that the Law School has considered race-neutral alternatives to its policy and found them to be inadequate. The Law School has participated in both pre-admission and post-admission recruiting activities and found them insufficient by themselves to create a diverse student body. As the Law School's

expert witness Stephen Raudenbush has made clear, a race-neutral admissions policy would substantially reduce the number of underrepresented minority students in the Law School student body and increase the occurrence of segregated learning spaces and social settings. *See* Supplemental Expert Report of Stephen W. Raudenbush, *Grutter v. Bollinger*, No. 97-75928 (E.D. Mich.) (Jan. 5, 2001).

As documented in the brief of *amici curiae* American Educational Research Association, et al., in the companion case of *Gratz v. Bollinger*, recent studies demonstrate that race-neutral admissions policies—in particular, policies focusing on class or economic disadvantage—fail to promote the same levels of educational diversity available through race-conscious policies. *See* Brief of the American Educational Research Association, et al., as *Amici Curiae* in Support of Respondents, *Gratz v. Bollinger* (02-516).

Studies focusing on law school admissions further demonstrate that race-neutral policies are ineffective alternatives to race-conscious policies. In an extensive analysis of data from all students who applied to American Bar Association-approved law schools in 1990-91 and from all Fall 1991 first-year law students at 163 ABA-approved schools, the leading study examined the likely effects of a race-neutral admissions policy that relied solely on undergraduate grades and LSAT scores, as well as policies that employed various race-neutral factors, such as socioeconomic status. Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admissions Decisions*, 72 N.Y.U.L. REV. 1 (1997). The Wightman study found that a "numbers only" policy would lead to a sharp decline in the number of minority applicants who were admitted to *any* law school, not just the ones to which they had applied. *Id.* at 15. Among 3435 black applicants who were accepted to at least on law school to which they applied,

only 687 would have been accepted if a grade-test score model had been the sole basis for admissions. *Id.* The Wightman study also found that none of the models employing race-neutral factors, including socioeconomic status, were as effective as race-conscious admissions policies. *Id.* at 39-49.

Race-neutral admissions policies have been found to be ineffective at law schools in states that previously allowed race-conscious policies. For instance, in a study focusing on the law schools at the University of California, Berkeley (Boalt Hall) and UCLA, the researcher found that a "discretionary" system employed at Boalt Hall in the late 1990s that attempted to employ race-neutral factors for students in the upper-middle range of grades and test scores still had the effect of screening out minority applicants who fell at the lower range of grades and test scores. Helen H. Hyun, The End of Race: Maintaining Diversity at U.C. Law Schools in a Post-Affirmative Action Era 110-11 (2000) (unpublished Ed.D. dissertation, Harvard University). At UCLA, where the administration implemented a class-based formula for achieving diversity among admitted students that combined LSAT, undergraduate GPA, and socioeconomic disadvantage, the study found that minority enrollments still fell far below the levels attained under race-conscious admissions, and there was even a gradual decline in the enrollments of underrepresented minorities in the first years of the class-based admissions policy. *Id.* at 183. The study concludes that "in the absence of race conscious decision making, there is no efficient alternative for maintaining prior levels of racial and ethnic diversity at selective institutions." *Id.* at 182.

Analyses of recent admissions data demonstrate the strongly *negative* impact of race-neutral admissions policies on minority enrollments in state law schools where race-conscious admissions policies have been eliminated. *See, e.g.*, William C. Kidder, *The Struggle for Access from*

Sweatt *to* Grutter: *A History of African American, Latino, and American Indian Law School Admissions, 1950-2000*, 19 HARV. BLACKLETTER L.J. (manuscript at 34-43) (forthcoming 2003), *available at* http://www.law.harvard.edu/studorgs/blj/articles.html; Jorge Chapa & Vincent A. Lazaro, Hopwood *in Texas: The Untimely End of Affirmative Action*, *in* CHILLING ADMISSIONS: THE AFFIRMATIVE ACTION CRISIS AND THE SEARCH FOR ALTERNATIVES 55, 62-68 (Gary Orfield & Edward Miller eds. 1998); Jerome Karabel, *No Alternative: The Effects of Color-Blind Admissions in California*, *in* CHILLING ADMISSIONS: THE AFFIRMATIVE ACTION CRISIS AND THE SEARCH FOR ALTERNATIVES 33, 43-45 (Gary Orfield & Edward Miller eds. 1998).

According to analyses of recent enrollment data from the selective public law schools in Texas, California, and Washington, where race-conscious admissions have been prohibited for at least three years, there have been steep declines in minority enrollments under race-neutral admissions policies. *See* Kidder, *supra* (manuscript at 34-43). From 1993-96, when race-conscious admissions were in place, African Americans were, on average, 6.2% of the first-year law students enrolled at the University of Texas; from 1997-2001, when race-neutral admissions were in place, African Americans were only 2.2% of the first-year students.[6] For the same years, similar declines in African American enrollments occurred at the University of California, Berkeley (Boalt Hall) and UCLA: Boalt

[6] Indeed, the data on African American enrollments for the University of Texas are especially striking when placed in historical context. In 1951, Heman Marion Sweatt and the five other African American entrants to the first post-segregation class at University of Texas Law School constituted 2.1% of the enrolled students. Thomas D. Russell, *The Shape of the Michigan River as Viewed from the Land of* Sweatt v. Painter *and* Hopwood, 25 LAW & SOC. INQUIRY 507, 507 (2000). During 1997-2001, African Americans were a nearly identical proportion of the first-year enrollments at the University of Texas: 2.2%. *See* Kidder, *supra* (manuscript at 38-39).

Hall enrollments dropped from 8.7% to 2.7%; UCLA enrollments declined from 8.4% to 2.3%. At the University of Washington, where policies were changed from race-conscious to race-neutral in 1999 following the passage of Initiative 200, African American first-year enrollments declined from an average of 3.3% in 1996-98 to an average of 1.2% in 1999-2001. *Id.* (manuscript at 40).

The dangers of tokenism are especially apparent when one considers the actual number of students enrolled, rather than percentages. For example, at Boalt Hall, only 1 out of 268 first-year students entering in 1997 was African American; at UCLA only 3 out of 289 first-year students in 1998 were African American; at the University of Washington, only 2 out of 158 students in 1999 were African American, and only 1 out of 163 students in 2000 was African American. *Id.* (manuscript at 41).

The declines in Latino first-year law school enrollments are comparable. From 1993-96, Latinos were, on average, 11.1% of the first-year law students enrolled at the University of Texas; from 1997-2001, they were only 8.3% of the first-year students. For the same periods, Boalt Hall Latino first-year enrollments dropped from 13.2% to 6.4%; UCLA Latino first-year enrollments dropped from 14.4% to 8.2%. At the University of Washington, Latino first-year enrollments declined from an average of 6.3% in 1996-98 to 4.6% in 1999-2001. *Id.* (manuscript at 42).

D. A "Percent Plan" is Not a Viable Alternative to the Law School's Race-Conscious Policy.

Various *amici curiae* for Petitioner, including the United States and the state of Florida have proposed that "percent plan" policies adopted in Texas, California, and Florida are effective alternatives to the Law School's race-conscious admissions policy. As a practical matter, however, percent plan policies are completely unsuitable for a

national law school such as the University of Michigan Law School. Percent plans, which guarantee admission to students who are among a fixed percentage of the highest ranking graduates of each high school within a state, can be implemented only at the undergraduate level at large state universities and cannot be applied to private institutions, to small institutions, to national institutions, or to graduate and professional school programs. *See* Catherine L. Horn & Stella Flores, *Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences* 10 (2003), *available at* http://www.civilrightsproject.harvard.edu. As recent studies demonstrate, percent plans are far less effective than race-conscious policies in promoting educational diversity, *see id.*, and even attempting to create a comparable system with a national law school would lead to unavailing and unwieldy results.

CONCLUSION

For the foregoing reasons, the judgment of the Court of Appeals upholding the constitutionality of the University of Michigan Law School's race-conscious admissions policy should be affirmed.

ANGELO N. ANCHETA
Counsel of Record
CHRISTOPHER F. EDLEY, JR.
124 Mt. Auburn Street,
Suite 400 South
Cambridge, MA 02138
(617) 496-3240

APPENDIX A

STATEMENTS OF INTEREST OF *AMICI CURIAE*

Since its founding in 1916, the *American Educational Research Association (AERA)* has worked to advance science-based knowledge of educational systems and processes. AERA members center their efforts on ensuring that educational research addresses fundamental problems and informs practice and policy that relate to education across the life span and contexts of learning. Researchers in this field address all aspects of education from the processes of teaching and learning, curriculum development, and the social organization of schools to the effects of education on cognitive and social capacity, human development, and health and at-risk behaviors. As the paramount interdisciplinary research society in education, AERA has embraced the role of improving the nation's education research capacity by promoting application of scientific standards, and by providing training programs, research and mentoring fellowships, and seminars on advanced statistical techniques. The work of the Association is greatly enhanced by the ongoing efforts of its 20,000 individual members to produce and disseminate knowledge, refine methods and measures, and stimulate translations and practical applications of research results.

The *Association of American Colleges and Universities (AAC&U)* is the leading national association devoted to advancing and strengthening liberal learning for all students, regardless of academic specialization or intended career. Since its founding in 1915, AAC&U's membership has grown to more than 800 accredited public and private colleges and universities of every type and size. AAC&U functions as a catalyst and facilitator, forging links among presidents, administrators, and faculty members who are engaged in institutional and curricular planning. Its mission is to reinforce the collective commitment to liberal education at both the national and lo-

cal levels and to help individual institutions keep the quality of student learning at the core of their work as they evolve to meet new economic and social challenges.

The *American Association for Higher Education (AAHE)* is a national organization of individuals dedicated to the common cause of improving the quality of higher education. Since 1879, under the auspices of the National Education Association, AAHE has sponsored an annual conference on the state of higher education in America. As a diverse group of individuals, its over 9,000 members step beyond their institutional roles to engage in a campus-wide perspective. Through this lens, members examine the changes higher education must make—in both theory and practice—to ensure its effectiveness in a complex, interconnected world. AAHE concentrates its work within four fields of inquiry and action: learning about learning; partners in learning; assessing for learning; and organizing for learning. In each field, AAHE promotes praxis, the intersection of theory and practice. Each of these fields is fueled by research, projects, convenings, and publications, through which AAHE's members, other constituents, and staff members tackle issues that arise in a fast-changing higher education environment. The fields of inquiry allow AAHE and its members to explore both the depth and breadth of current core programmatic areas, and to address emerging trends. AAHE has a strong commitment to access and diversity. Part of its mission is to "advocate learning practices that help individuals and institutions benefit from diversity," by documenting and promoting multiple forms of scholarship and disseminating this body of knowledge on teaching and learning about diversity to a national and international audience.